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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/409,305

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CRAIG D. ULLMAN

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SCHWEGMAN, LUNDBERG & WOESSNER/OPEN TV

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MINNEAPOLIS, MN 55402-0938

EXAMINER

BLAIR, DOUGLAS B

ART UNIT

PAPER NUMBER

2142

MAIL DATE

DELIVERY MODE

05/21/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/409,305	Applicant(s) ULLMAN ET AL.	
	Examiner DOUGLAS B. BLAIR	Art Unit 2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 149-183 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 149-183 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The applicant has amended claims 149, 151-158, 160-164, and 170-174. Claims 149-183 are currently pending.

Response to Arguments

The applicant's arguments with respect to the 35 USC section 112 1st paragraph rejection have been considered and are persuasive. The Examiner would first like to make it clear, that the second part of the applicant's argument is completely erroneous since section 2163, and not section 2164, of the MPEP apply to new matter/written description rejections. Rejections based on section 2163, like the one presented in the last office action, do not require analysis of the Wands factors as alleged by the applicant. Only enablement rejections require analysis of the Wands factors and the previous rejection was a new matter/written description rejection and not an enablement rejection. New matter situations relate to the applicant having possession of the claimed invention when the application was filed whereas enablement relates to whether or not those skilled in the art would have been able to implement the applicant's claimed invention based on the applicant's disclosure. The broad statement cited by the applicant from the Donner publication is not entirely correct because a new matter situation only requires a specific description of the new matter presented in the claims (See section 2163 of the MPEP). In the future the applicant should cite the MPEP and only the MPEP when challenging patent examination procedures.

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The first part of the applicant's argument is considered persuasive. In view of the exhibits, citation of the specification, and, most importantly, the citation of Figure 10, the Examiner now agrees that the originally filed disclosure did supply adequate support for the claimed inheritance. It is noted that the applicant stated that the cited portion of the applicant's specification occurs on pages 21-22 however the actual text of this citation actually appears on pages 27-28 of the originally filed application.

With respect to the prior art rejection, though the rejection has been revised, the Examiner does not agree with the applicant's characterization of the Rangan reference. The applicant argues against the previous citation of inheritance in Rangan as follows:

However, none of the information given by Rangan shows inheritance of SUV profile information. Rather, SUV information in each case appears to be taken directly from current SUV activity, or past SUV activity. For example, membership in a "poor neighborhood" or a "rich neighborhood" and purchasing proclivities can easily be determined, and often are determined, simply by asking the SUV, or by directly observing the buying activities of the SUV. See Rangan, Col. 11, lines 4-17.

The Examiner does not agree with this characterization of Rangan. After careful consideration, the Examiner will admit that Rangan does not explicitly teach the concept of inheriting. Rangan does not explain how the properties of a rich or poor neighborhood are applied to an individual user. Column 11, lines 4-17 do not state that SUV information appears to be taken directly from current SUV activity or past SUV activity nor does it state that membership in a neighborhood is determined by asking the SUV or directly observing activities, as alleged by the applicant. The applicant's characterization of Rangan does not appear to be based on any factual evidence.

The current prior art rejection has been revised to show how the concept of inheritance was well known at the time of the applicant's invention and though not explicitly taught by

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Rangan it would have been obvious to implement Rangan using inheritance because Rangan is silent as to any implementation details on how properties from a neighborhood are applied to an individual user.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 149-183 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,006,265 to Rangan et al. in view of U.S. Patent Number 5,784,560 to Kingdon et al.

As to claim 149, Rangan teaches a method for compiling and maintaining information for use in routing and transmitting content to a machine via a network by specifying particular fields within a computer-readable medium, the method comprising the steps of: receiving user activity information for updating a user profile (col. 28, lines 9-60); specifying in the medium user profile information for determining a uniform resource identifier for identifying content to transmit to the machine and an identification of the machine (col. 8, line 63-col. 9, line 21); wherein the content is selected based on the user profile and is used to enhance an audio video program (col. 8, line 63-col. 9, line 21); however Ragan does not explicitly teach inheriting user profile attributes into the user profile from a group of which the user is member and storing the

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user profile information in a hierarchical attribute value-pair data structure. Rangan does teach a user being member of a larger group (col. 11, lines 4-17, each SUV is part of a neighborhood).

Kingdon teaches a method of inheriting user profile attributes into the user profile from a group of which the user is member (col. 6, lines 7-33); and storing the user profile information in a hierarchical attribute value-pair data structure (col. 6, lines 7-33).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the applicant's invention to combine the teachings of Rangan regarding the distribution of user specific content with the teachings of Kingdon regarding a user inheriting attributes from a group because Kingdon provides a specific implementation for the broad concept touched (in the form of neighborhoods) in Rangan. Combing the teachings of inheritance taught by Kingdon with the neighborhood example of Rangan would produce a predictable result.

As to the rest of the claims, the combination of Rangan and Kingdon teaches these elements. Should the applicant have any questions about claim interpretation the Examiner can be contacted at the number listed at the conclusion of this office action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS B. BLAIR whose telephone number is (571)272-3893. The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Douglas B Blair/
Patent Examiner, Art Unit 2142